

Before the
Copyright Royalty Board
United States Copyright Office
Washington, D.C. 20540

In the Matter of)	
)	
Distribution of DART Sound Recordings)	Docket No. _____
Fund Copyright Owners Subfund and Featured)	
Artist Subfund Royalties For 2010)	

**NOTICE OF SETTLEMENT AND REQUEST FOR PARTIAL DISTRIBUTION OF THE
2010 SOUND RECORDINGS FUND FEATURED ARTIST AND
COPYRIGHT OWNERS SUBFUND ROYALTIES**

The Alliance of Artists and Recording Companies (“AARC”), on behalf of itself and parties listed in Exhibit A, *see* 2010 Settling Parties, Ex. A, (collectively referred to as the “Settling Parties”), submits this notice reporting that the 2010 Audio Home Recording Act of 1992 (“AHRA”)¹ Sound Recordings Fund Featured Artist and Copyright Owners Subfunds distribution proceeding is settled, except for the claims of Eric N. Burns, Arpi Takacs, Eugene “Lambchops” Curry, Herman Kelly, Afterschool Publishing, Eddie Rolling, T.M. Fennie, Asolo Chika Chuku, and Ernest William Furrow. Therefore, the Settling Parties request partial distribution of the 2010 Sound Recordings Fund Featured Artist and Copyright Owners Subfunds, as follows:

I. Status of Settlement

AARC pursued and obtained settlements with 439 of the 448 total claimants for the 2010 Sound Recordings Fund Featured Artist and Copyright Owners Subfunds, as detailed below:

¹ 17 U.S.C. §§ 1001-10 (1992).

Featured Artist Subfund

AARC pursued and obtained settlements with 215 of the 216 other 2010 Sound Recordings Fund Featured Artist Subfund claimants. *See* 2010 Settling Parties, Ex. A. The one remaining Featured Artist Subfund royalty claimant with whom AARC has been unable to obtain settlement is Herman Kelly, who has de minimis sales of 2,163 units in a universe of over one billion units of claimants' sound recordings sold in 2010. *See* Seltzer Decl. Ex. B, July 31, 2010. Therefore, the Settling Parties respectfully request distribution of 98% of the 2009 Sound Recordings Fund Featured Artist Subfund.

Sound Recording Copyright Owners Subfund

AARC pursued and obtained settlements with 224 of the 232 other 2010 Sound Recordings Fund Copyright Owners Subfund claimants. *See* 2010 Settling Parties, Ex. A. The eight Copyright Owners Subfund royalty claimants with whom AARC has been unable to obtain settlement are Eric N. Burns, Arpi Takacs, Eugene "Lambchops" Curry, Afterschool Publishing,² Eddie Rolling, T.M. Fennie, Asolo Chika Chuku, and Ernest William Furrow, who combined have de minimis sales of 3,010 units in a universe of over one billion units of claimants' sound recordings sold in 2010. *See* Seltzer Decl. Ex. B, July 31, 2010. Therefore, the Settling Parties respectfully request distribution of 98% of the 2010 Sound Recordings Fund Copyright Owners Subfund.

II. The Copyright Royalty Board Has Authority to Order the Distribution of Royalty Fees Not Subject to Controversy.

Partial distribution of the 2010 Sound Recordings Fund Featured Artist and Copyright Owners Subfunds is warranted to prevent any further delay in the distribution of royalties that are not in controversy. The Copyright Royalty Judges may order distribution of royalties,

² In fact, the Sound Recordings Fund Copyright Owners Subfund claim for Afterschool Publishing was also filed by Featured Artist claimant Herman Kelly.

pursuant to § 801(b)(3)(A) of the Copyright Royalty and Distribution Reform Act, “to the extent that the Copyright Royalty Judges have found that the distribution of such fees is not subject to controversy.” Copyright Royalty and Distribution Reform Act, 17 U.S.C. § 801(b)(3)(A) (2006). Here, the Settling Parties have established that the nine remaining claimants in the Sound Recordings Fund are entitled to minimal, if any, royalties based on the distribution, or lack of distribution, of their sound recordings during the 2010 royalty year. *See infra* Section III. Therefore, the Settling Parties have satisfied the statutory requirements under § 801(b)(3)(A). Partial distribution, as statutorily permitted under § 801(b)(3)(A), will allow the Settling Parties to collect the royalties to which they are entitled, while retaining sufficient funds to cover the outstanding claims. *See* § 801(b)(3)(A).

In addition to the existing statutory and regulatory mandates, there is ample precedent supporting the grant of partial distribution of royalties prior to a formal declaration of controversy. The Copyright Royalty Board (“CRB”) granted AARC’s motion for a partial distribution of 98% of the 2009, 2008, and 2007 Sound Recordings Funds. Order, In the Matter of Distribution of 2009 Digital Audio Recording Royalty Funds, Docket No. 2010-5 CRB DD 2009 (November 2, 2010); Order, In the Matter of Distribution of 2008 Digital Audio Recording Royalty Funds, Docket No. 2009-3 CRB DD 2008 (August 19, 2009); Order, In the Matter of Distribution of 2007 Digital Audio Recording Royalty Funds, Docket No. 2008-3 CRB DD 2007 (October 14, 2008). The CRB also granted partial distribution of the 2005, 2004, 2003, and 2002 Sound Recordings Fund and Musical Works Fund proceedings. Order, In the Matter of Distribution of 2006 Digital Audio Recording Royalty Funds, Docket No. 2008-2 CRB DD 2006 (July 23, 2008). Order, In the Matter of Distribution of 2005 Digital Audio Recording Royalty Funds, Docket No. 2006-4 CRB DD 2005 (November 16, 2006); Order, In the Matter of

Distribution of the 2002, 2003 and 2004 Digital Audio Recording Funds, Docket No. 2006-5 CRB DD 2002-2004 (Oct. 2, 2006).

The Copyright Arbitration Royalty Panel (“CARP”) and the Copyright Royalty Tribunal (“CRT”) have historically awarded partial distributions, expediting the distribution of uncontested royalties to the interested copyright parties who were entitled to them. *See, e.g.*, Distribution of 1995, 1996, 1997 and 1998 Digital Audio Recording Technology Royalties, 66 Fed. Reg. 9360, 9365 (Feb. 7, 2001); Order, In the Matter of Distribution of the 1998 Cable Royalty Fund, Docket No. 99-3 CARP DD 95-98 (Dec. 22, 1999); Order, In the Matter of Distribution of the 1996 Cable Royalty Fund, Docket No. 98-2 CARP CD 96 (Oct. 8, 1998); Order, In The Matter of Distribution of the 1995 Cable Royalty Fund, Docket No. 97-2 CARP CD 95 (Oct. 20, 1997); Order, In the Matter of Distribution of the 1994 Cable Royalty Fund, Docket No. 96 CARP CD 94 (Oct. 23, 1996); Order, In the Matter of Distribution of the 1992 Cable Royalty Fund, Docket No. 94 CARP CD 92 (Sept. 12, 1994); Order, In The Matter of Distribution of the 1993 Cable Royalty Fund, Docket No. 94 CARP CD 993 (Sept. 24, 1994); *see also* Order, In The Matter of Distribution of the 1992-1995 Satellite Royalty Funds, Docket No 97-1 CARP SD 92-95 (Mar. 17, 1997).

The above-referenced CRT and CARP decisions must be considered as precedent by the CRB under the provisions of § 803(a)(1) of the Copyright Royalty and Distribution Reform Act of 2004, which states:

The Copyright Royalty Judges shall act in accordance with regulations issued by the Copyright Royalty Judges and the Librarian of Congress, and on the basis of a written record, prior determinations and interpretations of the Copyright Royalty Tribunal, Librarian of Congress, the Register of Copyrights . . . and the Copyright Royalty Judges.

§ 803(a)(1).

In the aforementioned proceedings, the CRT and the Copyright Office reasoned that the delay between the collection of royalties, the filing of claims and the expected initiation of proceedings justified partial distribution of the relevant royalty funds in advance of the declaration of a controversy. *See, e.g.*, Distribution Order, Distribution of 1995, 1996, 1997 and 1998 Digital Audio Recording Technology Royalties, 66 Fed. Reg. 9360, 9365 (Feb. 7, 2001). In the case at hand, the delay between collection and distribution of DART royalties also warrants partial distribution. All but a de minimis portion (if any) of the collected royalties are not in controversy. If a partial distribution is not issued, the distribution of the Settling Parties' royalties will be delayed for months, if not years. Such a delay would substantially deprive the Settling Parties of the royalties they have negotiated in good faith in a concerted effort to minimize administrative costs and expedite the proceeding by avoiding litigation. Accordingly, the Settling Parties respectfully request that the CRB distribute 98% of the 2010 Sound Recordings Fund Featured Artist and Copyright Owners Subfunds.

III. Partial Distribution of 98% of the 2010 Sound Recordings Fund Featured Artist and Copyright Owners Subfunds is Warranted.

Pursuant to the AHRA, allocation of the 2010 Sound Recordings Fund Featured Artist and Copyright Owners Subfunds royalties must be based on distribution (record sales) of the claimants' sound recordings during the royalty year, in this case, 2010. 17 U.S.C. § 1006(c) (2006); 62 Fed. Reg. 6,558, 6,561 (Feb. 12, 1997). SoundScan is the industry-recognized source for sound recording sales in the United States and also the data source used by AARC to determine annual distribution of royalties.

Historically, decision makers in DART distribution proceedings have recognized SoundScan as a reliable sales data source. Distribution of 1995, 1996, 1997 and 1998 Digital Audio Recording Technology Royalties, 66 Fed. Reg. 9360, 9362 (Feb. 7, 2001); *see also*

Distribution of 1992, 1993 and 1994 Musical Works Fund, 62 Fed. Reg. 6558, 6562 (Feb. 12, 1997).

Based on sales titles and figures compiled by SoundScan, the 2010 total record sales for all claimants of the 2010 Sound Recordings Fund Featured Artist Subfund are 1,093,039,521 sales units and the 2010 Sound Recordings Fund Copyright Owners Subfund are 1,125,921,911 sales units. *See* Seltzer Decl. Ex. B, July 31, 2010. SoundScan compiles sales data based on labels and featured artists. *Id.* The 2010 SoundScan data lists solely 2,163 unit sales for a featured artist named Herman Kelly, 2,163 unit sales for a label named AfterSchool Publishing, Inc. (ASP), 834 unit sales for a copyright owner named Ernest William Furrow, and 13 unit sales for a copyright owner called T.M. Fennie. The 2010 sales data lists no sales for any copyright owners named Eric N. Burns, Arpi Takacs, Eugene “Lambchops” Curry, Eddie Rolling, or Asolo Chika Chuku. *Id.*

The Settling Parties’ Featured Artist Subfund claims total 1,093,037,358 units, equaling 99.9998% of the universe of the Featured Artist Subfund, which translates to approximately .31¢ for Mr. Kelly. The Settling Parties’ Copyright Owners Subfund claims total 1,125,918,901 units, equaling 99.9997% of the universe of the Copyright Owners Subfund, which translates to .63¢ for ASP, Ernest William Furrow, and T.M. Fennie combined. We therefore request that the Copyright Royalty Judges distribute 98% of the 2010 Sound Recordings Featured Artist and Copyright Owners Subfund royalties when such royalties next become available for distribution because they are not in controversy. Distribution of less than 98% of the 2010 funds would further deprive the Settling Parties of a substantial amount of royalties that belong to them and would result in the CRB holding royalties that are not in controversy. Furthermore, we believe that the 2% of 2010 Sound Recordings Fund Featured Artist and Copyright Owners Subfund royalties that would remain with the CRB would provide more than sufficient funds to satisfy

any Copyright Owners Subfund claims that ASP, Ernest William Furrow, T.M. Fennie, Eric N. Burns, Arpi Takacs, Eugene “Lambchops” Curry, Eddie Rolling, or Asolo Chika Chuku may substantiate and any Featured Artist Subfund claim that Herman Kelly may substantiate. The remaining 2% is more than adequate, especially in light of the fact that, except for the few sales attributed to Mr. Kelly, his label ASP, Ernest William Furrow, and T.M. Fennie, the SoundScan data shows no sales for any of them. *See Seltzer Decl. Ex. B, July 31, 2010.*

As to the amounts to be distributed to each Settling Party, we move to have the distribution made in bulk to AARC as a common agent for all Settling Parties. Agreements as to the proportionate allocation of royalties and the designation of a common agent to receive payment on behalf of the Settling Parties are permitted by the AHRA. 17 U.S.C. § 1007(a)(2) (2006).

IV. Conclusion

The Settling Parties agree that settlements were reached in an attempt to minimize the costs of the 2010 distribution proceeding. Consequently, the Settling Parties have agreed that the terms of the settlement agreements have no precedential effect on any future AHRA proceedings.

WHEREFORE, the Settling Parties respectfully request that, pursuant to § 801(b)(3)(A),
the CRB make a prompt partial distribution of 98% of the 2010 Sound Recordings Fund
Featured Artist and Copyright Owners Subfunds to AARC, as agent for the Settling Parties.

Respectfully submitted,
On Behalf of the Settling Parties

A handwritten signature in black ink, reading "Linda R. Bocchi". The signature is fluid and cursive, with a large loop at the beginning of the first name.

Linda R. Bocchi, Esq.
DC BAR # 338012
VA BAR # 77599
Executive Director
Alliance of Artists and Recording Companies
700 N. Fairfax Street, Suite 601
Alexandria, VA 22314
(703) 535-8101 (phone)
(703) 535-8105 (facsimile)

July 15, 2011

EXHIBIT A

2010 SETTLING PARTIES

July 13, 2011

Featured Artists

Ernst Andre**

James Cannings

Claimants represented by Jeffrey E. Jacobson, Esq.:

J RAD Music

Daniel Greenwald

Kosmic Daydream

Kim Angelis

Bill Gravel

John Kaizan Neptune

The Process

Aaron Shragge**

Beatrice Thomas

Vaneese Thomas

Claimants represented by Lawrence E. Feldman:

4:00 PM

AD LIBS

ANDREWS*LEE & THE HEARTS

BAKER*LAVERN

BAKER*RON

BALLARD*HANK

BARBARIANS

BELL*TONY

BELLAMY BROTHERS

BELMONTS

BENNO*MARC

BLACKFOOT

BOBBETTES

BRASS CONSTRUCTION

BRODIE*HUGH

BROWN*ALEX

BROWN*MAXINE

BROWN*SHARON

CAPITOLS

CARLEBACH*SHLOMO

CATHY JEAN & ROOMATES

CHAD & JEREMY

CHAKA DEMUS

CHAKA DEMUS & PLIERS

CHANTELS

CHIFFONS

CLANTON*JIMMY
CLASSICS IV
COLD CRUSH BROTHERS
COLLINS*LYN
COOKIES
CRASH CREW
CREED*LINDA
CRUDUP BROTHERS
DALE & GRACE
DAYVINA
DEE*LENNY
DEL-VIKINGS
DICK & DEEDEE
DIMUCCI*DION
DION
DION & BELMONT
DREAM STREET
DRY KILL LOGIC
DUBS
ELEGANTS
E-TYPE
FAUST*WAYNE
FEARING*CHARLES
FLIPMODE SQUAD
FUNKY FOUR PLUS ONE
GARDNER*TAANA
GEORGE*BARBARA
GQ
GRANDMASTER FLASH & FURIOS FIVE AKA FURIOUS FIVE
GRAVEDIGGAZ
GROOVE THEORY
GUILBEAU*GIB
HAGGARD*MERLE
HAMILTON*ROY
HARPTONES
HARRIS*NORMAN
HARRIS*THURSTON
HARRISON*WILBERT
HEARTBEATS
HOLMES*RICHARD "GROOVE"
HORNE*LENA
HORSTMAN*CINDY
JACKSON CHUCK
JIVE FIVE
KENNER*CHRIS
KERSEY*RON

LARRIEUX*AMEL
LEADERS OF THE NEW SCHOOL
LEWIS*JERRY LEE
LITTLE EVA
LYMON*FRANKIE
LYMON*FRANKIE & TEENAGERS
MEL*MELLE AKA GRANDMASTER MELLE MEL
MOONGLOWS
NEALE*BILL
NUTMEGS
OMAR & THE HOWLERS
ORIOLES
ORLONS
PARRISH*DEAN
PASSIONS
PENGUINS
PITTMAN*WAYNE AKA O'KAYSIONS
PRETTY BOY FLOYD
QUIET ELEGANCE
RAE*FONDA
ROSIE & ORIGINALS
RUNAWAYS
RUSH*TOM
SAM THE SHAM & THE PHAROAHS
SANDS*TOMMY
SEVAG*OYSTEIN
SEXUAL HARRASSMENT
SHEP & THE LIMELITES
SHIRELLES
SILHOUETTES
SMITH*PRESTON
SMITH*VERDELLE
SOUL SONIC FORCE
STANDELLS
TEMPOS
TERRY*JOHNNY
VANILLA ICE
VINCELLI*JOSEPH
VINCENT*GENE & BLUE CAPS
WALLS*HARRY VANN
WESLEY*FRED
WHITNEY*MARVA
WILLIAMS*CAROL
WILLIAMS*OTIS & CHARMS
WILLOWS
WORL-A-GIRL

YARBROUGH*GLENN
AKENS*JEWEL
AYERS*ROY
BAD BRAINS
BELL*ARCHIE
BERRY*RICHARD
BLACK UHURU
BLOSSOMS
BOB B. SOXX & BLUE JEANS
BROWN*RUTH
BUSTA RHYMES
BYRD*BOBBY
CAKE
CASCADES
CHAMBERS BROTHERS
CHANGE
COASTERS
CORBIN-HANNER BAND
CRESPO*RICKY
CRESTS
CRUDUP*ARTHUR "BIG BOY"
CRYSTALS
DANNY & THE JUNIORS
DELLS, THE
DIAMONDS
DIXIE CUPS
DOUGLAS*CAROL
FABULOUS THUNDERBIRDS
FLAMINGOS
FLYING BURRITO BROTHERS
GILLESPIE*DIZZY
HAPPENINGS
HELM*LEVON
INXS
JAY & THE AMERICANS
JAYNETTES
JB'S
JUNGLE BROTHERS
KLEINOW*PETER
KNACK
LEWIS*BARBARA
LITTLE ANTHONY & THE IMPERIALS
LITTLE TEXAS
LOBO
LOVE*DARLENE
MANGIONE*CHUCK

MANHATTANS
MANN*BARRY
MANN*HERBIE
MARCELS
MARLEY*RITA
MARTINO*AL
MARVELETES
MCPHATTER*CLYDE
MELVIN*HAROLD & BLUE NOTES
MFSB
MONOTONES
NEWTON*JUICE
NICK CAVE & BAD SEEDS
PARIS SISTERS
PATRA
PAUL*BILLY
PEACHES & HERB
PENN*DAWN
PITNEY*GENE
PLATTERS
RANDY & THE RAINBOWS
REEVES*MARTHA & VANDELLAS
RONETTES
ROSE*MICHAEL
SCOTT*FREDDIE
SEALS*DAN
SHA NA NA
SHANGRI-LAS
SIMONE*NINA
SMITH*FRANKIE
SOUL SURVIVORS
TAMS
TESH*JOHN
TRAMMPS
TROY*DORIS
WEIDER*JIM
WELK*LAWRENCE
WHEELER*CHERYL
YAKI-DA

****These claimants have signed on with AARC. Therefore, AARC will represent them in all current and future AHRA Sound Recording Fund proceedings.**

All other claimants have settled with AARC only with regard to the 2010 proceeding.

Copyright Owners

Reginald C. Woodward, Jr.**

Ernst Andre**

James Cannings

Claimants Represented by Dayna D. Staggs:

Dayna D. Staggs**

Songwriters Guild of America

National Music Publishers Association

Dayna Staggs Music Publishing**

Dayna Paryss Entertainment, LLC

Doin Peeps Music Publishing, LLC

Claimants Represented by Jeffrey E. Jacobson, Esq.:

ROIR

Norton Records, Inc.

J Rad Music

Daniel Greenwald

Kosmic Daydream

Reachout International Records, Inc.

Skysong Record

CQK

Bill Gravel

John Kaizan Neptune

VP Record Distributors, Inc.

Claimants Represented by Lawrence E. Feldman:

ANDREWS*LEE & THE HEARTS

BAKER*RON

BARBARIANS

BELL*TONY

BLOSSOMS

BRODIE*HUGH

BROWN*ALEX

CATHY JEAN & ROOMATES

COLD CRUSH BROTHERS

COOKIES

CREED*LINDA

CRUDUP BROTHERS

DALE & GRACE

DAYVINA

DICK & DEEDEE

DREAM STREET

FEARING*CHARLES

FUNKY FOUR PLUS ONE

GARDNER*TAANA

GEORGE*BARBARA

HARRIS*NORMAN

HEARTBEATS

HORSTMAN*CINDY
JAYNETTES
KERSEY*RON
NEALE*BILL
ORLONS
PARRISH*DEAN
PITTMAN*WAYNE AKA O'KAYSIONS
RAE*FONDA
SHEP & THE LIMELITES
SMITH*VERDELLE
TEMPOS
TERRY*JOHNNY
VINCELLI*JOSEPH
WALLS*HARRY VANN
WEIDER*JIM
WHITNEY*MARVA
YAKI-DA
4:00 PM
AD LIBS
AKENS*JEWEL
AYERS*ROY
BAD BRAINS
BAKER*LAVERN
BALLARD*HANK
BELL*ARCHIE
BELLAMY BROTHERS
BELMONT
BENNO*MARC
BERRY*RICHARD
BLACK UHURU
BLACKFOOT
BOB B. SOXX & BLUE JEANS
BOBBETTES
BRASS CONSTRUCTION
BROWN*MAXINE
BROWN*RUTH
BROWN*SHARON
BUSTA RHYMES
BYRD*BOBBY
CAKE
CAPITOLS
CARLEBACH*SHLOMO
CASCADES
CHAD & JEREMY
CHAKA DEMUS
CHAKA DEMUS & PLIERS

CHAMBERS BROTHERS
CHANGE
CHANTELS
CHIFFONS
CLANTON*JIMMY
CLASSICS IV
COASTERS
COLLINS*LYN
CORBIN-HANNER BAND
CRASH CREW
CRESPO*RICKY
CRESTS
CRUDUP*ARTHUR "BIG BOY"
CRYSTALS
DANNY & THE JUNIORS
DEE*LENNY
DEL-VIKINGS
DELLS, THE
DIAMONDS
DIMUCCI*DION
DION
DION & BELMONTES
DIXIE CUPS
DOUGLAS*CAROL
DRY KILL LOGIC
DUBS
E-TYPE
ELEGANTS
FABULOUS THUNDERBIRDS
FAUST*WAYNE
FLAMINGOS
FLIPMODE SQUAD
FLYING BURRITO BROTHERS
GILLESPIE*DIZZY
GQ
GRANDMASTER FLASH & FURIOS FIVE AKA FURIOUS FIVE
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GROOVE THEORY
GUILBEAU*GIB
HAGGARD*MERLE
HAMILTON*ROY
HAPPENINGS
HARPTONES
HARRIS*THURSTON
HARRISON*WILBERT
HELM*LEVON

HOLMES*RICHARD "GROOVE"
HORNE*LENA
INXS
JACKSON CHUCK
JAY & THE AMERICANS
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LYMON*FRANKIE & TEENAGERS
MANGIONE*CHUCK
MANHATTANS
MANN*BARRY
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MARCELS
MARLEY*RITA
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PLATTERS
PRETTY BOY FLOYD
QUIET ELEGANCE
RANDY & THE RAINBOWS
REEVES*MARTHA & VANDELLAS
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ROSIE & ORIGINALS
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SCOTT*FREDDIE
SEALS*DAN
SEVAG*OYSTEIN
SEXUAL HARRASSMENT
SHA NA NA
SHANGRI-LAS
SHIRELLES
SILHOUETTES
SIMONE*NINA
SMITH*FRANKIE
SMITH*PRESTON
SOUL SONIC FORCE
SOUL SURVIVORS
STANDELLS
TAMS
TESH*JOHN
TRAMMPS
TROY*DORIS
VANILLA ICE
VINCENT*GENE & BLUE CAPS
WELK*LAWRENCE
WESLEY*FRED
WHEELER*CHERYL
WILLIAMS*CAROL
WILLIAMS*OTIS & CHARMS
WILLOWS
WORL-A-GIRL
YARBROUGH*GLENN

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EXHIBIT B

DECLARATION OF RICHARD SELTZER

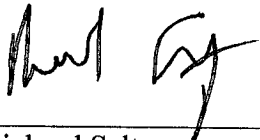
I, Richard Seltzer, declare under penalty of perjury as follows:

1. My name is Richard Seltzer, and I am a Political Science professor at Howard University, where I currently teach graduate courses in statistics and research methods. For the past thirty-one years, I have also designed and conducted various surveys. Additionally, I have authored numerous publications, which are listed in the attached curriculum vitae. On account of my experience in the field, I have previously been qualified as an expert in statistics and survey research in several federal and state courts. In addition to my teaching responsibilities, I have acted as a consultant to a variety of organizations in creating and maintaining complex databases. For the last fourteen years, I have worked with the Alliance of Artists and Recording Companies ("AARC") as a royalty distribution system and sales data consultant. It is through this professional relationship that I have become familiar with Nielsen SoundScan's sales data,¹ the data my following testimony is based upon.
2. I confirm that AARC's Royalty Distribution System uses SoundScan data to determine the annual allocation of Sound Recordings Fund royalties among claimants before the Copyright Royalty Board.
3. I have reviewed the 2010 SoundScan sales data in the AARC Royalty Distribution System and found 2,163 sales for Herman Kelly as a featured artist.
4. I have reviewed the 2010 SoundScan sales data in the AARC Royalty Distribution System and found no sales for Eric N. Burns, Arpi Takacs, Eugene "Lambchops" Curry, Eddie Rolling, and Asolo Chika Chuku and sales of 2,163 units for AfterSchool Publishing, 834 units for Ernest William Furrow, and 13 units for T.M. Fennie as copyright owners.
5. The 2010 universe of record sales for claimants to the Featured Artists Subfund, which includes sales of the Settling Parties as defined in AARC's "Notice of Settlement and Request for Partial Distribution of the 2010 Sound Recordings Fund Featured Artists and Copyright Owners Subfund Royalties," and the 2,163 sales for Herman Kelly is 1,093,039,521 units.

¹ "Nielsen is the world's leading marketing and media information company." In conducting their research Nielsen utilizes "a range of cutting-edge systems and methodologies to conduct the broadest and most comprehensive research in the world." Nielsen collects weekly sales data from an extensive number of retail sources to produce Nielsen SoundScan. Nielsen SoundScan is noted to be the industries leading source of this data and is used by all "major media" when compiling and reporting sales data for recording companies and performing artists. See http://en-us.nielsen.com/etc/content/nielsen_dotcom/en_us/home/industries/media/entertainment.mbt.22396.RelatedLinks.20707.MediaPath.pdf.

6. The 2010 universe of record sales for claimants to the Copyright Owners Subfund, which includes sales of the Settling Parties as defined in AARC's "Notice of Settlement and Request for Partial Distribution of the 2010 Sound Recordings Fund Featured Artists and Copyright Owners Subfund Royalties," and the 2,163 unit sales for AfterSchool Publishing, 834 unit sales for Ernest William Furrow, 13 sales for T.M. Fennie, and no sales for Eric N. Burns, Arpi Takacs, Eugene "Lambchops" Curry, Eddie Rollins, or Asolo Chika Chuku, is 1,125,921,911 units.

I declare under penalty of perjury that the foregoing is true and correct.



Richard Seltzer

7/13/2011

Date

City of Alexandria

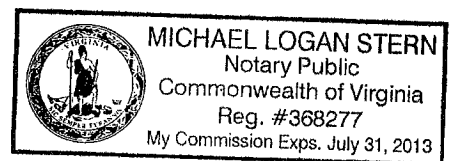
Commonwealth of Virginia

Certified this 13 day of 7, 2011



Notary Public

My commission expires: 7/31/13



CERTIFICATE OF SERVICE

I, Sarah Koons, Junior Royalty Administrator of the Alliance of Artists and Recording Companies, certify that on this July 15, 2011, a copy of the foregoing "Notice of Settlement and Request for Partial Distribution of the 2010 Sound Recordings Fund Featured Artist and Copyright Owners Subfund Royalties" was served, by the designated delivery method, on the following parties:


Sarah Koons

NON-SETTLING PARTIES BY EMAIL AND OVERNIGHT MAIL:

Eric N. Burns
11438 Grable Court
Fontana, CA 92337
ericman8@aol.com

Eugene "Lambchops" Curry
4000 Gypsy Lane
Suite 245
Philadelphia, PA 19129
liset@voicenet.com

Herman Kelly
Afterschool Publishing
c/o Herman R. Kelly
P.O. Box 14157
Detroit, MI 48214
hermankelly@att.net

Eddie Rolling
c/o Paula B. Mays
815 Bernard Street
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¹ No postal carrier is able to provide overnight delivery service to Romania. We have therefore sent this pleading to Mr. Takacs electronically via email and by USPS Express Mail, which will arrive in an estimated 3-5 business days.